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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of : Confirmation No. 4336
Ian E. Kibblewhite, et al. : Group Art Unit 2855
Application No. 10/528,515 : Examiner: Jonathan M. Dunlap
Filing Date: October 26, 2005 : (571) 270-1335
For a Patent for :
THREAD FORMING FASTENERS :
FOR ULTRASONIC LOAD :
MEASUREMENT AND CONTROL : December 9, 2009

INFORMATION DISCLOSURE STATEMENT

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is being filed to advise the U.S. Patent Office of information which may be considered "material to patentability" in examining this Patent Application, in accordance with the provisions of 37 C.F.R. §1.56.

Applicants' Information Disclosure Statement, filed in this matter on July 31, 2006, advised the U.S. Patent Office of an earlier-filed U.S. Patent Application, No. 11/344,028, which has since issued as U.S. Patent No. 7,467,556, on December 23, 2008.

-1-

U.S. Patent Application No. 12/287,761 was later filed as a divisional of U.S. Patent Application No. 11/344,028, on October 14, 2008. A "Notice of Allowance" has since issued for U.S. Patent Application No. 12/287,761, on August 25, 2009. The following documents are cited in a "Notice of References Cited" (Form PTO-892) accompanying the issued Notice of Allowance:

U.S. Patents

5,343,785 (Holt et al.) - Issued: September 6, 1994

4,294,122 (Couchman) - Issued: October 13, 1981

U.S. Patent Application Publication

2003/0095847 (Cheal) - Published: May 22, 2003

Applicants' Information Disclosure Statement, filed in this matter on July 31, 2006, also advised the U.S. Patent Office of an earlier-filed U.S. Patent Application, No. 11/344,029, which has since issued as U.S. Patent No. 7,441,462, on October 28, 2008.

U.S. Patent Application No. 12/287,760 was later filed as a divisional of U.S. Patent Application No. 11/344,029, on October 14, 2008. A "Notice of Allowance" has since issued for U.S. Patent Application No. 12/287,760, on October 19, 2009. The following documents are cited in a "Notice of References Cited" (Form PTO-892) accompanying the issued Notice of Allowance:

U.S. Patents

6,907,944 (Sale et al.) - Issued: June 21, 2005

6,350,245 (Cimino) - Issued: February 26, 2002

U.S. Patent Application Publications

2006/0123917 (Kibblewhite) - Published: June 15, 2006

2004/0065154 (Kibblewhite) - Published: April 8, 2004

Copies of the above-listed U.S. patent documents have not been enclosed with this Information Disclosure Statement in view of the elimination of this requirement from 37 C.F.R. §1.98(a)(2) (See, Section 609.04(a), Part II(D) of the Manual of Patent Examining Procedure).

Due consideration of the foregoing documents is respectfully requested under 37 C.F.R. §1.56(a)(2). It is further respectfully requested that the Examiner acknowledge consideration of the above-listed documents by initialing the PTO-1449 form (1) which is enclosed with this Information Disclosure Statement and which lists the foregoing documents, and by providing applicants with an initialed copy of the enclosed PTO-1449 form to confirm consideration of the listed documents.

It is recognized that this Information Disclosure Statement is being filed after taking an appeal of the final rejection presented in the Office Action mailed on February 12,

2009. Section 2001.06(b) of the Manual of Patent Examining Procedure, however, states that:

The individuals covered by 37 CFR 1.56 have a duty to bring to the attention of the examiner, ...information within their knowledge as to other copending United States applications which are "material to patentability" of the application in question... [citing] *Armour & Co. v. Swift & Co.*, 466 F.2d 767, 779, 175 USPQ 70, 79 (7th Cir. 1972)... [and] the prior art references from one application must be made of record in another subsequent application... [citing] *Dayco Prod.*, [infra,] 329 F.3d at 1369, 66 USPQ2d at 1808.

Section 2004 of the Manual of Patent Examining Procedure further indicates that:

It is desirable to call such applications to the attention of the examiner even if there is only a question that they might be "material to patentability" of the application the examiner is considering. See *Dayco Prod., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 1365-69, 66 USPQ2d 1801, 1806-08 (Fed. Cir. 2003)....

Even though the attorney, agent, or applicant doesn't consider it necessarily material, someone else may see it differently and embarrassing questions can be avoided.

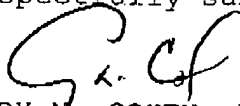
In view of the foregoing, it is submitted that this Information Disclosure Statement is appropriately submitted and duly considered in connection with this Patent Application. It is further respectfully requested that the Examiner reconsider the patentability of the claims which are pending in this Patent Application.

This Information Disclosure Statement is being submitted together with a "Request for Continued Examination


(RCE) Transmittal" under the provisions of 37 C.F.R. §1.114. No fee is believed to be necessary for the filing of this Information Disclosure Statement. In the event that a fee is required in connection with the filing of this Information Disclosure Statement, any necessary fees can be charged to Deposit Account No. 03-2405.

Corresponding action is earnestly solicited.

Respectfully submitted,


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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on:
December 9, 2009.

Date: 12/9/09 
Gary M. Cohen, Esq.